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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

March 18, 1999

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
TWA-325  
Washington, D.C. 20554

**Re: Implementation of the Subscriber Carrier Selection Changes Provisions of  
the Telecommunications Act of 1996; Policies and Rules Concerning  
Unauthorized Changes of Consumers Long Distance Carriers; CC Docket  
No. 94-129**

Dear Ms. Salas:

Enclosed herewith for filing are the original and four (4) copies of MCI WorldCom's Comments regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI WorldCom Comments furnished for such purpose and remit same to the bearer.

Sincerely yours,

Mary L. Brown

Enclosure  
MLB

No. of Copies rec'd 2+4  
DATA CODE

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier	)	
Selection Changes Provisions of the	)	
Telecommunications Act of 1996	)	CC Docket No. 94-129
	)	
Policies and Rules Concerning Unauthorized	)	
Changes of Consumers Long Distance	)	
Carriers	)	

**MCI WorldCom, Inc. Comments  
on the Further Notice of Proposed Rulemaking**

Mary L. Brown  
MCI WorldCom, Inc.  
1801 Pennsylvania Ave. NW  
Washington, D.C. 20006

Its Attorney

March 18, 1999

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## **Summary**

MCI WorldCom, Inc. ("MCI WorldCom") strongly supports further development of independent third party administration of preferred carrier changes, and offers additional proposals that establish the technical feasibility of third party administration and that will permit the initiation of a debate on the operational structure and processes of a third party administrator. In addition, MCI WorldCom supports a requirement that requires all carriers, including resellers, to identify themselves on customer bills, and to provide a customer service number to allow a customer to contact the service provider. MCI WorldCom opposes requirements that would substantially add to the financial burdens of resellers, such as the proposal to assign each reseller its own unique Carrier Identification Code and require that reseller to pay for the installation of the code in local exchange carrier central offices. MCI WorldCom also advocates that the Commission adopt independent third party verification requirements modelled on our business process. MCI WorldCom responds to the Commission's request for comments on verification methods for Internet sales of telecommunications service, and suggestions on a Commission prescribed definition of subscriber.

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**ATTACHMENT**

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier	)	
Selection Changes Provisions of the	)	
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	)	
Policies and Rules Concerning Unauthorized	)	
Changes of Consumers Long Distance	)	
Carriers	)	

**MCI WorldCom, Inc. Comments  
on the Further Notice of Proposed Rulemaking**

**I. INTRODUCTION**

MCI WorldCom, Inc. ("MCI WorldCom") offers comment on several of the issues raised in the *Further Notice* in the above-captioned proceeding.<sup>1</sup> MCI WorldCom strongly supports further development of independent third party administration of preferred carrier changes, and offers additional proposals that establish the technical feasibility of third party administration and that will permit the initiation of a debate on the operational structure and processes of a third party administrator. In addition, MCI WorldCom supports a requirement that requires all carriers, including resellers, to identify themselves on customer bills, and to provide a customer

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<sup>1</sup> Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, December 23, 1998 (hereinafter either *Second Report and Order* or *Further Notice*).

service number to allow a customer to contact the service provider. MCI WorldCom opposes requirements that would substantially add to the financial burdens of resellers, such as the proposal to assign each reseller its own unique Carrier Identification Code and require that reseller to pay for the installation of the code in local exchange carrier central offices. MCI WorldCom also advocates that the Commission adopt independent third party verification requirements modelled on our business process. MCI WorldCom responds to the Commission's request for comments on verification methods for Internet sales of telecommunications service, and suggestions on a Commission prescribed definition of subscriber.

## **II. THE COMMISSION SHOULD ADOPT A REQUIREMENT FOR A NEUTRAL THIRD PARTY PIC ADMINISTRATOR**

### **A. Neutral Third Party Administration Is Necessary to Preserve Existing Competition and Promote Additional Competition in Telecommunications Markets**

As the Commission has recognized in other contexts, the Telecommunications Act of 1996 has dramatically changed the legal environment for telecommunications services. Not only did the Act for the first time create a legal right for new entrants to enter local markets, including states that previously banned local competition by operation of state law, but the Bell Operating Companies won the right to enter the long distance market, subject to compliance with sections 271 and 272 of the Act. While effective competition has yet to develop in local markets,<sup>2</sup> there is no doubt that many companies are already competing, or are poised to compete, for local exchange, exchange access, and long distance services, or in market niches, on a geographic or

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<sup>2</sup> Local Competition Report, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, December 1998.

service-specific basis.

This contrasts sharply with the pre-Act world, in which a vibrantly competitive long distance industry interacted with monopoly incumbent local exchange carriers (ILECs). In the pre-Act environment, ILECs -- by virtue of inheriting the local exchange networks once run by the AT&T predivestiture monopoly -- controlled many functions that were necessary to make the networks run. For example, ILECs, through their then-subsidary Bellcore, administered the North American Numbering Plan, which controls numbering resources. When 800 number portability was mandated in 1989, ILECs built and controlled the systems necessary to administer number portability.

These are examples of functions that ILECs performed in a world in which they were the monopoly provider of local exchange. With Congressional, Commission, and executive branch policy now favoring a competitive model for the local exchange, critical network functions that were performed by the ILECs need to be reassessed. Congress and the Commission have already identified and implemented two such critical functions -- North American Numbering Plan administration and independent local number portability administration. In each case, the Commission has transitioned a function formerly performed by ILECs to a neutral third party administrator to ensure that a process exists that does not discriminate in favor (or against) a particular carrier or industry segment.

Independent and neutral administration of presubscribed interexchange carrier (PIC) designations that direct the ILEC switch to hand off a call to the customer's long distance carrier of choice is the next logical step. There are strong reasons to take this next step toward neutral third party administration.

First, allowing one competitor -- an ILEC -- to control information and processes necessary for another competitor to offer service is a recipe for anticompetitive problems, and not a recipe that supports competition. If the historical artifact of ILEC-run PIC processes is allowed to continue indefinitely, the industry could soon find itself in a world where one set of vertically integrated carriers (the ILECs) controls the information and means by which another set of vertically integrated carriers (e.g., today's interexchange carriers -- IXC's) can offer services.

In its *Second Report and Order*, the Commission already recognized some of the operational difficulties that have arisen under the current system. For example, in the intrastate toll markets, where ILECs and IXC's compete head-to-head, the industry has witnessed ILECs using PIC information to inappropriately and unlawfully win back customers before the customer's preferred carrier selection was implemented.<sup>3</sup> Indeed, the Commission made a finding that ILECs have an incentive to use PIC information in an anticompetitive manner.<sup>4</sup> Despite the existence of several legal provisions that would render unlawful anticompetitive actions, the Commission nevertheless imposed additional requirements for ILEC treatment of PIC information, such as establishing its expectation that PIC changes will be executed promptly and establishing PIC information as carrier proprietary information that cannot be used by the ILEC for marketing.<sup>5</sup> While these are useful and helpful restrictions to ILEC autonomy, they address symptoms without curing the disease. There is simply no way that regulators can effectively limit

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<sup>3</sup> MCI WorldCom, Inc. V. US West Communications, Inc., Formal Complaint Re: IntraLATA PIC Freezes ("Jamming"), Colorado Public Utilities Commission, filed March 8, 1999 (discussing misleading negative option PIC freeze solicitations by US West).

<sup>4</sup> Second Report and Order at para. 102.

<sup>5</sup> *Id.* at paras. 104-111.



anticompetitive actions on the part of ILECs short of removing PIC administration from ILEC control.

Second, one of the most difficult problems that new entrants face today is the prospect of attempting to win new customers in an environment where basic information about PIC freeze status of an ANI is not available. This raises an enormous barrier to entry. MCI WorldCom estimates that today between 20-30 percent of "sold" customers -- those who have affirmatively made a choice to come to MCI WorldCom, are blocked at install due to a PIC freeze. We have no ability to determine in advance whether a line is "frozen", and our customers often don't know or don't remember whether they have requested a freeze, or for what services. We then have to renew contact with the customer, at enormous expense to us and inconvenience to the customer, to explain that the customer must contact its ILEC to override the freeze. In the interim, the customer -- who fully expected to be benefiting from, for example, MCI WorldCom's Five Cent Sundays -- has been making calls on his or her existing PIC at whatever rates the existing carrier offered.

At a minimum -- assuming arguendo that the Commission decides to retain PIC freezes as a customer option, an option which MCI WorldCom opposes -- the third party PIC administrator should be able to provide real time PIC freeze data that would enable competitors to engage in the Commission-prescribed method for overriding PIC freezes as part of the customer sales transaction. This is not only critical to maintaining a vibrantly competitive interstate interLATA service market, but also to ensuring that intrastate markets are fully open to competition as

Congress intended.<sup>6</sup>

Third, as the telecommunications market grows more competitive, there will be many carriers competing in the local exchange market. As is the case in long distance today, it is reasonable to expect that not only will there be multiple providers, but customers will change local providers from time-to-time. Other carriers seeking to provide, for example, long distance services, will face increased difficulty in ascertaining the customer's local exchange carrier, and in interacting with that local carrier's back office systems to effectuate a PIC change. In today's environment, the largest long distance carriers and ILECs have developed sophisticated electronic bonding tools that permit fast and reliable exchange of customer information to allow PIC transactions to occur. Unfortunately, speed and reliability are often sacrificed when competitive local exchange carriers enter the market, since they do not initiate service with the same level of back office systems capability that characterize ILEC systems. A simple way to overcome this issue with respect to new entrants is to place the PIC administration in a neutral third party, and make it the neutral third party's job to interact with the different carriers' systems. This will speed the development of competition, and ensure that the long distance market remains vibrantly competitive even as new entrants with less developed methods of PIC administration enter local markets.

Finally, but certainly not the least important reason to adopt neutral third party administration, is that ILEC-administered PIC change processes are extremely expensive. There can be no room in a fully competitive environment for one competitor to impose an above-cost

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<sup>6</sup> See Section 251(b)(3) of the Telecommunications Act of 1996 and 47 C.F.R. §§ 51.205 -51.215 of the Commission's rules.

rate on another competitor to administer a process that allows the other competitor to compete. PIC change charges are today \$5.00, the same level as when the ILECs first filed their PIC change tariffs in 1984. There was no cost support for the size of the PIC that the Commission found reliable, and the \$5.00 charge did not then -- and does not now-- reflect a cost-based rate. In fact, BellSouth changed its PIC fee to \$1.65, in recognition of the automated processes that now exist within the larger ILECs to handle PIC changes. Even at the \$1.65 level, however, MCI WorldCom believes that PIC charges are well above cost, and operate as an impediment to competition in the long distance market, if not as an example of an unlawful price squeeze.<sup>7</sup> In contrast, a neutrally-administered third party PIC process should result in cost-based rates, since the vendor will have every incentive to submit a bid based on cost and provide service in an efficient manner.

Significantly, what third party PIC administration would not do is change the fundamental relationship that carriers have with their customers. Customers would continue to call carriers to order service -- local, intraLATA toll, and interLATA toll. Carriers would continue to be free, subject to the Commission's joint marketing and customer proprietary information rules, to offer additional services to customers. The third party PIC administrator would function as a clearinghouse for data and ensure its neutral dissemination to the local exchange carriers that must provide the correct routing of calls from customer lines.

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<sup>7</sup> MCI has filed a complaint against the current level of PIC charges, alleging they are unreasonably high. MCI Telecommunications Corporation and Telecom\*USA v. Ameritech Operating Companies, File No. E-97-20 (filed April 14, 1997), v. US West Communications, File No. E-97-08 (filed December 17, 1996), v. Pacific Telephone Company and Nevada Bell Telephone Company, File No. E-97-21 (filed April 14, 1997), and v. Southwestern Bell Telephone Company, File No. E-97-23 (filed April 21, 1997).

## **B. Neutral Third Party Administration is Technically Feasible**

The public policy benefits of third party PIC administration are uncontested, and fully support and advance the Commission's goal to foster competition in all telecommunications markets. In its *Further Notice*, the Commission sought comment on specific proposals for third party PIC administration. Attached to MCI WorldCom's comments is a White Paper authored by Lockheed Martin, Inc., the current third party administrator for the limited liability corporations that oversee local number portability in seven regions around the country, and the current administrator of the North American Numbering Plan.

Lockheed offers one possible vision of how a third party PIC process might work. In MCI WorldCom's view, there may well be other technical models for third party PIC administration that differ in some respects from Lockheed's. Our purpose in offering the Lockheed paper is to explain and describe, from the perspective of an entity that handles local number portability administration, one example of a third party PIC process that would produce substantial benefits relative to today's system. Other potential vendors may well have a different vision, and other ideas that should be considered.

While it is important for parties to provide additional technical detail about third party PIC administration, MCI WorldCom believes that the most significant contribution of the Lockheed Martin paper is that it clearly establishes the technical feasibility of a third party PIC process.

The Lockheed paper provides a detailed description of the mechanics of processing a PIC change using a neutral third party administrator and the interaction of the administrator with the various carriers. Under Lockheed's proposal, a single, centralized Neutral Third Party (NTP) would maintain a database of PIC/CARE records, including customer's carrier selections and PIC

freeze information. The NTP, as the repository of the PIC, sends the information to the customer's local exchange carrier, who then loads the PIC information into its databases for use by its local network for routing. In addition, all carriers will be able to query the NTP's databases to determine whether a customer has placed a PIC freeze on some or all of its services. From the local exchange carrier's perspective, its previous interaction with multiple -- and potentially thousands -- of long distance carriers ends with the inauguration of the NTP. In lieu of maintaining data flows with multiple IXCs, the local exchange carrier now interacts with only the NTP. This significant improvement over today's system should reduce local exchange carrier cost, and make it easier for new entrants to capture the correct PIC data and accurately route calls.

As is the case today with other third party administrators, the neutral third party PIC administrator cannot be owned, controlled, or associated with a common carrier. It is critical to the mission of the neutral entity that it not possess any business motivation to engage in discrimination or otherwise operate in an inequitable manner.

The NTP would operate as the central database which all carriers would utilize to either provide or obtain PIC and PIC freeze information. Carriers might choose to establish dedicated connections to the NTP, or depending upon individual carrier needs, might choose dial-up access or even an outside vendor to provide or obtain information from the NTP. For carriers submitting PIC changes, the NTP would process the information and ensure that it is available in a standardized format. The NTP would also ensure that the customers's local exchange carrier promptly received an updated PIC indicator as part of the PIC/CARE records. For these purposes, the NTP could operate as a centralized national database, or could operate utilizing

regional databases as does today's LNP administration system.

According to Lockheed, data management of the the volume of records and transactions is no more difficult or complex than the current Number Portability Administration Center (NPAC) and Service Management System (SMS).<sup>8</sup> The NTP would maintain the following type of records, today known as "CARE" records: customer name and telephone number, intraLATA toll PIC, interLATA PIC, freeze information if applicable, and type of customer selection activity. If it is deemed necessary, the record could also contain the customer's social security number and or the carrier's tax identification number to assist the NTP in ensuring the accuracy of the data.

In addition to maintaining the data and downloading accurate PIC information to local exchange carrier networks, the NTP could perform other functions that will increase the utility of a third party system. For example, the NTP could provide an 800 number for customers to call, equipped with an audio response unit, so that customers can obtain the names of carriers that provide service in their area. This would be of significant benefit, particularly to customers who have moved to new calling areas and who might not be familiar with the names of eligible carriers. Significantly, a neutrally administered service such as this is far more desirable than the current system, which relies on ILECs to read from a list while simultaneously allowing the ILEC to feature itself prominently in the customer communication.

As discussed above, the NTP could also provide to carriers, on a real-time basis, information on whether a customer's service is subject to a PIC freeze. Carriers such as MCI WorldCom would be able to establish dedicated links to the NTP for the purpose of obtaining

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<sup>8</sup> These systems have been designed for the projected national needs of the industry and are capable of porting in excess of 180 million phone numbers.

such information at the time they have completed a sale. At that time, with the customer still on the phone, the carrier can take the necessary steps to override the PIC freeze if a freeze has been placed on the customer's existing service. Of course, various technical solutions exist to providing such data to carriers, including database query via dedicated links or a voice response system that allows a customer service representative to obtain PIC freeze information.

The NTP could also function as an entity authorized to remove existing PIC freezes. In addition to the three-way call mandated by the Commission's *Second Report and Order*, the NTP could provide a call center for the purpose of participating in three-way calls between the preferred carrier, the customer, and the NTP. The NTP might collect the customer's social security number for the purpose of ensuring the accuracy of its data over time.

For initial orders (e.g., a customer moves to a new calling area), the customer would call the local exchange carrier to arrange for local service. As is the case today, the customer selects his or her local calling plan and other features. ILECs, who have both market power and long standing relationships with customers, should then be required to inform customers that they have a choice in intraLATA toll and interLATA providers. If the customer expresses a preference for a carrier for either toll service, that request must be honored by the ILEC. If the customer expresses no preference or does not know which carrier he or she wants, the ILEC should be able to state that it provides these services (if it does so), and it also must inform the customer that he or she can obtain more information about available carriers from the NTP.<sup>9</sup>

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<sup>9</sup> MCI WorldCom suggests that no such protective requirements are warranted for customer service calls involving new entrants to the local exchange market. New entrants possess no market power, and do not have the benefit of an incumbent carrier's status as "the phone company."

As a result, the customer's PIC/CARE record might be transmitted to the NTP from the ILEC (if the customer has made a complete selection) or the NTP might have direct communication with the customer, enabling it to enter the information directly. But in both cases, it is the NTP, transmitting the final PIC/CARE information to the ILEC, that triggers the change in the local network to allow the customer's selection to be honored. At the same time, PIC information would need to be transmitted to the preferred carrier who would otherwise be unaware of the customer's selection, and who will need to contact the customer to place the customer on an appropriate calling plan.

Of course, the long distance carriers are likely to generate many orders through outbound telemarketing efforts. Lockheed's paper proposes two different methods of handling changes that arise due to telemarketing. Under the first option, the customer transaction proceeds as it does today -- the carrier calls the customer, the customer decides to change service providers, the carrier performs one of the FCC-mandated verification processes, and then submits a PIC change to the NTP. The NTP processes the change by first, consulting its PIC freeze database, and then generating a record for transmission to the local exchange carrier, the preferred carrier, and the "de-selected" carrier. The local exchange carrier would then implement the change in its network and return a confirming message to the NTP. Of course, MCI WorldCom would prefer Lockheed's second option, which allows the carrier, at the point of sale, an opportunity to override the PIC freeze using Commission-authorized override methods, perhaps at the conclusion of the third party verification process

While a mandated national system might have advantages, there is no need for the Commission to move immediately to require all carriers to use NTP in all cases. In its White



Paper, Lockheed proposes that the NTP administer PIC changes in major metropolitan areas first. This more limited availability of the system would ensure that the system was being utilized in areas that are responsible for the greatest volume of PIC changes, and would delay the need for smaller ILECs to change their systems. Like LNP, however, the Commission should require that all carriers in the area participate in the system. At the same time, the NTP should be encouraged to develop flexible processes that meet the needs of smaller carriers to encourage participation and avoid imposing burdens on them to the extent possible.

C. Industry should be encouraged to conduct a trial of third party PIC administration

While it is important for the Commission to understand the Lockheed proposal, MCI WorldCom would caution against using a notice and comment process to proceed to resolve the myriad technical details would need to be resolved in order to establish a full blown third party PIC system. Very much like local number portability, a more efficient process might be for the Commission to encourage interested carriers to initiate a process that leads to a trial or trials of third party PIC administration in a limited geographic location(s). Like the LNP trials, participants should agree in advance on how they will measure the success or failure of such a trial. Multiple trials might be possible to allow multiple vendors to participate. In MCI WorldCom's view, this would be the most efficient mechanism to resolve the complex technical issues that must be overcome for all carriers to interact with a common administrator. And, as was the case in LNP, a trial will provide invaluable information on which to proceed to adopt a final regulatory structure to govern third party PIC. There is no reason why such an effort could not begin immediately, while the Commission is considering the record in this stage of the

proceeding.

### III. SHARING OF CICS PROMOTES LONG DISTANCE COMPETITION AND SHOULD NOT BE LIMITED

#### A. Background

In its *Further Notice*, the Commission sought comment on three options to remedy two "problems" that it identified -- (1) the "soft slam" in which a customer is moved from one reseller to another reseller, both utilizing the same carrier identification code (CIC), and thereby disabling an ILEC-administered PIC freezes and (2) the mis-identification of the facilities-based carrier as the underlying carrier on the customer's bill.<sup>10</sup> The Commission requested responses on three options that it stated would cure the problems it identified: (1) require all resellers to obtain individual CICs; (2) create a "pseudo CIC" appended to facilities-based carrier's CIC to identify individual resellers; and (3) require underlying facilities-based carriers to modify their systems to prevent inadvertent PIC freeze override by the facilities-based long distance provider and allow identification of resellers on the customer's bill.<sup>11</sup>

#### B. Resellers should be clearly and unambiguously identified on the customer's bill

As our comments in the pending Truth in Billing docket state,<sup>12</sup> the service provider's name should be clearly and unambiguously displayed on a customer's bill. In addition, the

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<sup>10</sup> Further Notice at paras. 145-146.

<sup>11</sup> *Id.* at para. 149.

<sup>12</sup> Truth in Billing and Billing Format, CC Docket No. 98-170, Comments of MCI WorldCom, Inc., filed November 13, 1998..

service providers should be required to display a customer service phone number to enable customers to contact their service provider if they have a question or concern. These requirements should apply both to bills issued directly by an IXC and to billing service provided by local carriers on behalf of IXCs. In and of itself, a requirement to display the name and customer service number of the service provider will benefit customers who believe they have been converted without authorization, since they will now be able to identify the carrier and have a customer service number to call. In MCI WorldCom's experience, the presence on the ILEC bill of the "PIC" carrier -- the underlying facilities based carrier -- may introduce customer confusion unless the service provider information is adequately displayed above any call detail billed for the service provider.

There is no need, and it would be undesirable, to adopt the suggestion in the *Further Notice* that both the resale carrier's number and the facilities-based carrier's number appear on the customer bill. Such a requirement would no doubt produce confusion in that the customer would not be able to identify which carrier is its service provider, and is likely to result in the facilities-based carrier receiving customer service calls for matters unrelated to the issue of unauthorized changes. The better approach is to require the reseller to refer the customer to his/her preferred carrier when confronted with a customer dispute. In addition, the Commission should give some consideration to requiring ILECs to more prominently display the reseller's name on the bill so that customer confusion is minimized.

C. Requiring each reseller to obtain its own CIC is a draconian solution that will raise entry barriers to the long distance market and possibly drive out smaller carriers

As an initial matter, MCI WorldCom has no evidence before it to suggest that “soft slams” are a problem of such frequency that they require a specific regulatory solution. The Commission has recently completed a substantial overhaul of its PIC change rules, and has invited further waiver processes. In MCI WorldCom’s view, the Commission would be well advised to determine what effect its new rules have on unauthorized conversions generally before adopting such extensive rules specific to a narrow aspect of the PIC dispute controversy.

More generally, the Commission has a long tradition of promoting resale as a means of introducing additional price competition into telecommunications markets and encouraging entry.<sup>13</sup> In fact, it was the Commission’s decision authorizing resale of AT&T’s facilities-based services that launched MCI’s market opportunity in the long distance market, and eventually spawned the entire spectrum of today’s long distance providers.<sup>14</sup> MCI WorldCom’s practice of permitting resellers to “share” its CIC is fully in accordance with the Commission’s broad policy objectives to encourage market entry. The Commission should carefully consider how limits on such practices could thwart entry by carriers who provide robust competitive substitutes, even for retail services offered directly by MCI WorldCom.

In resale, carriers buy bulk transmission at volume-discount rates, and resell it to end users

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<sup>13</sup> Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities, 60 FCC 2d 261 (1976), recon 62 FCC 2d 588 (1977), aff’d sub nom. American Telephone and Telegraph Co. V. FCC, 572 F.2d 17 (2d Cir), cert. denied, 439 U.S. 875 (1978); Regulatory Policies Concerning Resale and Shared Use of Common Carrier Domestic Public Switched Network Services, 83 FCC 2d 167 (1980), aff’d sub nom. National Association of Regulatory Utility Commissioners v. FCC, 746 F.2d 1492 (D.C.Cir. 1984).

<sup>14</sup> The Commission recently rejected arguments raised by GTE that barriers to entry in the long distance market were high. Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc., CC Docket No. 97-211, released September 14, 1998 at paras. 51-64.

who purchase in small quantities and who would not otherwise be in a position to buy the less expensive, bulk volume. It is this arbitrage opportunity that has driven long distance prices to competitive levels, while simultaneously providing low entry barriers to the long distance market. Under this system, competitors do not need their own network -- or even their own switches -- to provide long distance service. All they need is an ability to buy service in volume, sell that service to end users, and provide billing. As a result, competition in the long distance market has flourished, with hundreds of providers offering service. Many of today's national carriers relied exclusively or substantially on resale in their first few years in business. And many, like MCI WorldCom, grew to provide their own facilities.

While using resale as a tool for price competition and to encourage entry, the Commission has simultaneously maintained low entry barriers for resellers in other respects. For example, the Commission early in the history of competition determined that new entrants that lacked market power would be subject to far less regulation than dominant carriers with market power. In its *Competitive Carrier* proceedings, the Commission streamlined nondominant carrier tariff filings and eliminated domestic section 214 requirements.<sup>15</sup> The Commission has also declined to impose rate structure requirements on nondominant carriers, while imposing such requirements on

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<sup>15</sup> Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, CC Docket No. 979-252, Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979); First Report and Order, 85 FCC 2d 1 (1980); Further Notice of Proposed Rulemaking, FCC 82-187, 47 Fed. Reg. 17, 308 (1982); Second Report and Order, 91 FCC 2d 59 (1982); Order on Reconsideration, 93 FCC 2d 54 (1983); Third Further Notice of Proposed Rulemaking, 48 Fed. Reg. 28,292 (1983); Third Report and Order, 48 Fed. Reg. 46,971 (1983); Fourth Report and Order, 95 FCC 2d 554 (1983), vacated *AT&T Co. V. FCC*, 978 F.2d 727 (D.C. Cir. 1992), cert. denied, *MCI Telecommunications Corp. V. AT&T Co.*, 509 U.S. 913 (1993); Fifth Report and Order, 98 FCC 2d 1191 (1984); Sixth Report and Order, 99 FCC 2d 1020 (1985), vacated *MCI Telecommunications Corp. V. FCC*, 765 F.2d 1186 (D.C. Cir. 1985).

dominant carriers through its Part 69 rules, and has generally exempted nondominant carriers from the cost accounting requirements imposed on dominant providers.

In the face of this history of encouraging entry and lowering barriers to entry, the *Further Notice* seeks comment on a requirement that would raise barriers to entry in the long distance market by requiring resellers to obtain individual CICs. As the Commission recognized, a mandatory CIC requirement means that a reseller that today shares a facilities-based carrier's CIC would need to obtain a CIC assignment and pay ILECs for translation of that CIC in every service area in which the reseller had originating traffic. Stated differently, a mandatory CIC requirement erects a substantial financial barrier to entry.

MCI WorldCom estimates that a nationwide reseller would spend in excess of \$500,000 just to obtain a CIC and have it installed in ILEC central offices. This expenditure does not include the costs the reseller would pay to its facilities-based carrier for changes to the facilities-based carrier's systems. Moreover, once a CIC is obtained, it is difficult for the reseller to change facilities-based carriers. A reseller that utilizes its own CIC must wait 45-60 days from the date of submission of its order to have its CIC installed so that the ILEC will route the calls to the correct facilities-based carrier's network. Some 4,000 such orders would need to be submitted to ILECs around the country if the reseller were doing business nationwide. MCI WorldCom estimates that filing and coordination of these orders, including inevitable processing delays that accompany massive orders that must be handled through ILEC systems, would take a reseller approximately nine months to complete. In addition, some ILECs will charge the reseller for disconnecting from one facilities-based carrier and for connecting to a new one. In this case,

the translation costs are much higher than the \$500,000 fee for obtaining a CIC initially.<sup>16</sup> MCI WorldCom therefore opposes the suggestion in the *Further Notice* to require each reseller to obtain a CIC.<sup>17</sup>

Rather than increase entry barriers, a far better solution is suggested by the Commission's invitation in the *Second Report and Order* to create a third party liability administrator, who can work with facilities-based carriers and their resellers to match a customer's telephone number with the correct service provider. An industry proposal on a third party mechanism is expected to be filed shortly, and is expected to provide a solution to the problem of locating the specific carrier that initiated an unauthorized conversion. For example, in today's environment, MCI WorldCom would review the telephone number to determine which reseller a customer uses (to the extent the reseller utilizes a shared CIC). There is no reason why that information cannot be provided to a third party liability administrator promptly to ensure immediate identification of a reseller carrier involved in an unauthorized PIC change dispute.

In any event, the notion that the Commission would impose a CIC requirement on resellers for the policy goal of honoring PIC freezes makes little sense. The ambiguity with which the Commission discussed the PIC freeze issue in the *Second Report and Order* demonstrates its

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<sup>16</sup> Even if one assumes that competitive facilities-based carriers might absorb some of the transaction costs associated with "re-pointing" a CIC in order to win the reseller's business, smaller facilities-based carriers that have less opportunity to absorb these costs may be disadvantaged in the competition for resale business.

<sup>17</sup> Similarly, adding additional digits to the CIC is likely to be expensive for the industry, since the entire industry would need to modify systems to accommodate more digits. This will affect every carrier, including facilities-based long distance providers who will need substantial systems modifications.

misgivings about blessing PIC freezes as a “solution” to unauthorized conversions.<sup>18</sup> In MCI WorldCom’s view, PIC freezes are dubious as a consumer protection device but are nearly always anticompetitive, and should not be permitted. In our experience with PIC freezes, we have found that most customers do not understand PIC freezes, and cannot remember what services they have “frozen”. Nor do they understand the process for lifting a freeze. When the customer decides to exercise his/her right to choose by selecting a new carrier, the PIC freeze eliminates or substantially interferes with the customer’s choice. As discussed above in the section presenting the third party PIC administrator proposal, only ILECs have access to PIC freeze data today. That means until an order is submitted and rejected, long distance carriers have no way to know if a customer’s line is “frozen.” In lieu of worrying about how to keep the world safe for PIC freezes, MCI WorldCom respectfully submits that regulators ought to be concerned in the first instance about preserving opportunities for customer choice.

Instead of imposing a CIC requirement on all resellers, the Commission should be aware that there are less costly solutions that are either under development in the industry, or that the Commission could order, to ease its management of PIC disputes involving resellers. First, MCI WorldCom urges the Commission to require the ILECs to provide PIC freeze information to other carriers. With respect to our reseller customers, MCI WorldCom routinely sends PIC change orders to ILECs when end users are changing resellers that utilize a shared CIC. It is our understanding that the ILECs do not process this information, including the relatively simple determination of whether the customer is subject to a PIC freeze. Failing to provide this PIC freeze information means that the facilities-based carrier will switch the customer to the new

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<sup>18</sup> Second Report and Order at paras. 113-115.



carrier, even if the customer has elected a freeze. This makes no sense to customers, and no doubt adds to an already confusing situation.

In addition, MCI WorldCom is taking internal steps that will reduce the scope of the mis-identification problem cited by the Commission. For example, we are in the process of revising our billing systems for wholesale products to display CIC information for resellers that have obtained CICs. We are also expanding our ability to record and transmit CARE records to permit greater ease in matching a particular end user with the specific reseller. The Commission should encourage all facilities-based carriers to make improvements to their internal systems in lieu of imposing CIC requirements.

#### **IV. FURTHER SPECIFICATION OF INDEPENDENT THIRD PARTY VERIFICATION SHOULD TRACK MCI WORLDCOM PRACTICE AND PROCEDURE**

In the *Further Notice*, the Commission solicits further comment on additional rules for independent third party verification. MCI WorldCom offers the following information on its third party verification process, and requests that any additional rules follow the process and procedures outlined below. As the Commission is aware, MCI WorldCom is a leader in establishing independent third party verification, and believes that standardization of this process in accordance with its business practices would yield significant benefits in the efforts to curb unauthorized conversions.

In telemarketing, verification operates as follows: MCI WorldCom first contacts a customer via telemarketing and the customer agrees to join MCI WorldCom. In most cases, the TPV process immediately follows the conclusion of the sales call. The TPV process involves

transferring the customer to an independent -- and not co-located -- TPV vendor in order that the vendor can perform verification of the sale. In other cases, the TPV vendor contacts the customer at a later time. Significantly, MCI WorldCom does not participate in the verification call. The verification occurs between the TPV vendor and the customer.

The TPV representative asks the customer several questions from a prepared script, all of which are crafted to ascertain whether the consumer wanted to make the change and understands that his or her service will be changed to MCI WorldCom. The questions also confirm that the person is authorized to make the change from the telephone number. Each service (local toll, long distance) is reviewed separately. If the customer responds that he or she does not want to change carriers, the sale is cancelled. In addition, the customer is given an opportunity to cancel the order at the conclusion of the call -- and if the customer accepts, the sale is cancelled.

Pivotal to the TPV's success is that in no event is the TPV company compensated on the basis of any completed sale or install. The TPV has only one purpose -- to confirm the fact of a desired sale.

Automated versions of TPV should also be permitted subject to certain limitations. Provided that the automated versions of TPV adhere to the basic requirements imposed by the Commission, utilizing an automated voice response unit instead of a live operator can be a more efficient approach for many carriers. MCI WorldCom does not object to the use of automated voice response units to provide TPV, provided the same protections for live TPV are present -- the call is delivered to an independent entity that provides the automated voice response unit, the customer (not the carrier representative) must identify himself and respond to the questions, the communication should be taped, questions must be clear and simple, the process must be

auditable, and the communication as a whole must capture the full customer consent.

Finally, MCI WorldCom opposes any effort to use the TPV process to solicit or provide information about PIC freezes. For the reasons previously cited, MCI WorldCom opposes PIC freezes, believes them to be anticompetitive in intent and effect, and prefers that regulators discourage their use. In no event, however, should TPV vendors be required -- or permitted -- to sell this "feature" to customers. The TPV process has the greatest integrity and efficiency when it is limited to verifying information that the carrier has already obtained. TPV should not be used to describe or explain this feature to customers.<sup>19</sup>

## V. REGULATION OF INTERNET SALES IS UNNECESSARY

In its *Further Notice*, the Commission has requested comment on what additional steps, if any, the Commission should take to require verification for on-line sales of telecommunications services. MCI WorldCom believes that no further regulatory mandates are necessary at this time. The Commission's *Second Report and Order* has taken significant steps to remove the financial incentives from unauthorized conversion, such as the provision in its new rules that requires the unauthorized carrier to disgorge revenues received from a customer that was converted against the customer's wishes. With no ability to profit from unauthorized conversions, unauthorized carriers are far less likely to engage in fraudulent behavior. It would therefore be premature to saddle on-line commerce with extensive regulatory "protections" that may never be needed. On

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<sup>19</sup> As the Commission is aware, MCI WorldCom has advocated that a TPV transaction should be recognized to override a PIC freeze, since the customer has indicated once on a sales call and once to a TPV operator its preference to change carriers. It appears to MCI WorldCom that the Commission has asked a different question in its *Further Notice* -- whether TPV vendors can offer information about the existence, process, and scope of a PIC freeze to a customer. It is this latter practice that we oppose.

line commerce is in its infancy, and telecommunications carriers are only just beginning to explore business arrangements that allow customers to sign up for service. At present, carriers that utilize on-line arrangements may employ different methods of verifying a sale, such as TPV or utilizing an e-mail verification. The Commission should not at this time burden on-line commerce with additional regulatory requirements, particularly when the overarching regulatory structure already guards against unauthorized conversion.

Finally, the Commission asks whether customer on-line communications should be utilized as a mechanism to lift PIC freezes. Consistent with MCI WorldCom's view that PIC freezes are anticompetitive and harmful to consumers, we strongly support Commission endorsement of all reasonable methods that enable customers to exercise choice.

#### **VI. SUBSCRIBER SHOULD NOT BE DEFINED**

The Commission is also seeking comment on how to define the term "subscriber". First, any rule that limits transactions to the single person whose name appears on carrier billing records is misguided. Although it is a relatively simple matter to write a rule, the enforceability of any rule is problematic if the effect is to limit the number of adults residing in a household from making a purchasing decision. In addition to the burdens the Commission correctly notes are placed on executing carriers, a carrier that is telemarketing its services is placed in the position of not knowing if the representations of the household resident that he or she is "authorized" are true. This will only lead to more complaints, as well-meaning carriers submit orders that are rejected by executing carriers. Moreover, MCI WorldCom will be hard pressed to explain to spouses why they are unauthorized to make a purchasing decision on behalf of their husband or wife. If the Commission nonetheless decides to proceed, the rule MCI WorldCom recommends is


to define subscriber as any adult residing in the household.

## VII. CONCLUSION

MCI WorldCom urges the Commission to adopt the goal of third party PIC administration, and to begin work immediately to implement third party PIC administration utilizing the model developed in LNP -- namely, a trial followed by Commission consideration and adoption of national rules. MCI WorldCom also urges the Commission to further specify TPV practices utilizing MCI WorldCom's business practice as a model. With respect to the other issues raised in these comments -- requiring resellers to obtain individual CICs, regulating Internet sales, and limiting by definition the adult residents who can make purchasing decisions -- MCI WorldCom urges the Commission to reject or at the very least defer action on these proposals.

Respectfully submitted,

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March 18, 1999

## **CERTIFICATE OF SERVICE**

I, Barbara B. Nowlin, do hereby certify that copies of the foregoing Reply Comments of MCIWorldCom in the Matter of Implementation of the Subscriber Carrier Section Changes Provisions of the Telecommunications Act of 1996 and the Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers were sent, on this 18th day of March, 1999, via first-class mail, postage pre-paid, to the following:

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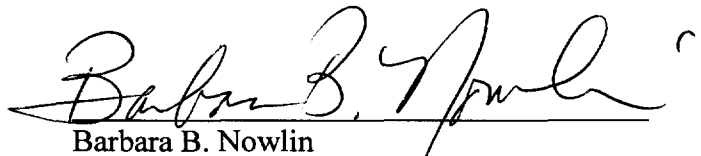
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